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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,050	07/25/2003	Gary Matroni	P-6256U2 SLDZ 2 00312	3796
24492	7590	03/10/2005		
THE TOP-FLITE GOLF COMPANY, A WHOLLY OWNED SUBSIDIARY OF CALLAWAY GOLF COMPANY 2180 RUTHERFORD ROAD LEGAL DEPT CARLSBAD, CA 92008-7328			EXAMINER GORDON, RAEANN	
			ART UNIT 3711	PAPER NUMBER
DATE MAILED: 03/10/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,050

Applicant(s)

MATRONI ET AL.

Examiner

Raeann Gorden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22,45-51 is/are allowed.
- 6) ☒ Claim(s) 23-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23, 32-40, 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu et al (6,645,091). Regarding claims 23 and 26-28, Wu discloses a golf ball comprising a core and cover made from polyurethane. The polyurethane includes a diisocyanate. With respect to the increase in the melt index prior to molding, the limitation appears to be a method step, which does not further limit the golf ball. Wu further discloses the cover layer should have a flexural modulus from 500 to 150,000 psi and the polyurethane of the present invention is relatively soft, which indicates the lower end of the range is applicable (col. 11). Regarding claim 24 and 25, the method by which the melt index is increased prior to molding is clearly a method step that does not affect the final product. Regarding claims 32-34, Wu further discloses the cover layer should have a flexural modulus from 500 to 150,000 psi and the polyurethane of the present invention is relatively soft, which indicates the lower end of the range is applicable (col. 11). Regarding claims 35-38, the cover has a Shore D hardness from 30 to 60 (col. 11). Regarding claims 39 and 40, Wu discloses a golf ball comprising a core and cover made from a thermoplastic polyurethane. The polyurethane includes a

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diisocyanate. Wu further discloses the cover layer should have a flexural modulus from 500 to 150,000 psi and the polyurethane of the present invention is relatively soft, which indicates the lower end of the range is applicable (col. 11). The cover may include more than one layer. Regarding claim 42, Wu discloses the golf ball includes an intermediate layer (abstract). Regarding claims 43 and 44, the diisocyanate may be MDI (col. 7). Increasing the melt index does not appear to alter the final golf ball since no value is claimed.

Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu in view of Sullivan (6,210,293). Wu discloses the invention as shown above but fails to disclose the thickness of the cover layer. However, Sullivan teaches an outer cover layer with a thickness from 0.01 to 0.1 inch. One of ordinary skill in the art would have modified Wu in view of Sullivan for the desired durability.

Response to Arguments

Applicant's arguments filed 12-27-04 have been fully considered but they are not fully persuasive. Applicant arguments with respect to the melt index are persuasive and the rejection is withdrawn. However the rejection over claims 23-44 is maintained. Wu clearly discloses the flex modulus for the polyurethane cover. Applicant argues claims 23 and 39 have a particular melt index requirement that the melt index is increased prior to molding. It is not clear how applicant considers this a limitation when no values are given for the melt index. Applicant is advised the manufacturing process does not limit the final product if it can be shown the final product is identical to the prior art (see

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MPEP 2113). In the instant case, applicant is attempting to claim an increase in melt index prior to molding. However, no values are claimed. The prior art is not required to disclose the method of making so long as the final product has a melt index within the ranges claimed by applicant, which again are not provided in claims 23 and 39.

Allowable Subject Matter

Claims 1-22 and 45-51 are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 571-272-4409. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rg
March 1, 2005



RAEANN GORDEN
PRIMARY EXAMINER